

all program beneficiaries or prospective beneficiaries. The notice must clearly articulate the program beneficiary's right to a referral and to services that reasonably meet the requirements of timeliness, capacity, accessibility, and equivalency as discussed in this section. A model notice is set out in appendix A to part 54a.

(c) *Referral to an alternative provider.* If a program beneficiary or prospective program beneficiary objects to the religious character of a program participant that is a religious organization, that participating religious organization shall, within a reasonable time after the date of such objection, refer such individual to an alternative provider. The State shall have a system in place to ensure that referrals are made to an alternative provider. That system shall ensure that the following occurs:

(1) The religious organization that is a program participant shall, within a reasonable time after the date of such objection, refer the beneficiary to an alternative provider;

(2) In making such referral, the program participant shall consider any list that the State or local government makes available to entities in the geographic area that provide program services, which may include utilizing any treatment locator system developed by SAMHSA;

(3) All referrals shall be made in a manner consistent with all applicable confidentiality laws, including, but not limited to, 42 CFR Part 2 ("Confidentiality of Alcohol and Drug Abuse Patient Records");

(4) Upon referring a program beneficiary to an alternative provider, the program participant shall notify the State or responsible unit of government of such referral; and

(5) The program participant shall ensure that the program beneficiary makes contact with the alternative provider to which he or she is referred.

(d) *Provision and funding of alternative services.* If an otherwise eligible applicant or recipient objects to the religious character of a SAMHSA-funded service provider, the recipient is entitled to receive services from an alternative provider. In such cases, the State or local agency must provide the

individual with alternative services within a reasonable period of time, as defined by the State agency. That alternative provider must be reasonably accessible and have the capacity to provide comparable services to the individual. Such services shall have a value that is not less than the value of the services that the individual would have received from the program participant to which the individual had such objection, as defined by the State agency. The alternative provider need not be a secular organization. It must simply be a provider to which the recipient has no religious objection. States may define and apply the terms "reasonably accessible," "a reasonable period of time," "comparable," "capacity," and "value that is not less than." The appropriate State or local governments that administer SAMHSA-funded programs shall ensure that notice of their right to alternative services is provided to applicants or recipients. The notice must clearly articulate the recipient's right to a referral and to services that reasonably meet the timeliness, capacity, accessibility, and equivalency requirements discussed above.

(e) *PATH annual report.* As part of the annual report to SAMHSA, PATH grantees shall include a description of the activities the grantee has taken to comply with 42 CFR part 54.

#### **§ 54.9 Assurances and State oversight of the Charitable Choice requirements.**

In order to ensure that States receiving grant funding under the SAPT block grant and PATH formula grant programs comply with the SAMHSA Charitable Choice provisions and provide oversight of religious organizations that provide substance abuse services under such programs, States are required as part of their applications for funding to certify that they will comply with all of the requirements of such provisions and the implementing regulations under this part, and that they will provide such oversight of religious organizations.

#### **§ 54.10 Fiscal accountability.**

(a) Religious organizations that receive applicable program funds for substance abuse services are subject to the

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same regulations as other nongovernmental organizations to account, in accordance with generally accepted auditing and accounting principles, for the use of such funds.

(b) Religious organizations shall segregate Federal funds they receive under an applicable program into a separate account from non-Federal funds. Only the Federal funds shall be subject to audit by government under the SAMHSA program.

### § 54.11 Effects on State and local funds.

If a State or local government contributes its own funds to supplement activities carried out under the applicable programs, the State or local government has the option to separate out the Federal funds or commingle them. If the funds are commingled, the provisions of this part shall apply to all of the commingled funds in the same manner, and to the same extent, as the provisions apply to the Federal funds.

### § 54.12 Treatment of intermediate organizations.

If a nongovernmental organization (referred to here as an “intermediate organization”), acting under a contract or other agreement with the Federal Government or a State or local government, is given the authority under the contract or agreement to select nongovernmental organizations to provide services under any applicable program, the intermediate organization shall have the same duties under this part as the government. The intermediate organization retains all other rights of a nongovernmental organization under this part and the SAMHSA Charitable Choice provisions.

### § 54.13 Educational requirements for personnel in drug treatment programs.

In determining whether personnel of a program participant that has a record of successful drug treatment for the preceding three years have satisfied State or local requirements for education and training, a State or local government shall not discriminate against education and training provided to such personnel by a religious organization, so long as such education

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and training is comparable to that provided by nonreligious organizations, or is comparable to education and training that the State or local government would otherwise credit for purposes of determining whether the relevant requirements have been satisfied.

## PART 54a—CHARITABLE CHOICE REGULATIONS APPLICABLE TO STATES, LOCAL GOVERNMENTS AND RELIGIOUS ORGANIZATIONS RECEIVING DISCRETIONARY FUNDING UNDER TITLE V OF THE PUBLIC HEALTH SERVICE ACT, 42 U.S.C. 290aa, ET SEQ., FOR SUBSTANCE ABUSE PREVENTION AND TREATMENT SERVICES

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APPENDIX TO PART 54a—MODEL NOTICE TO INDIVIDUALS RECEIVING SUBSTANCE ABUSE SERVICES.

AUTHORITY: 42 U.S.C. 300x–65, and 42 U.S.C. 290kk, *et seq.*, 42 U.S.C. 290aa, *et seq.*

SOURCE: 68 FR 56446, Sept. 30, 2003, unless otherwise noted.

### § 54a.1 Scope.

These provisions apply only to funds provided directly to pay for substance abuse prevention and treatment services under Title V of the Public Health Service Act, 42 U.S.C. 290aa, *et seq.*, which are administered by the Substance Abuse and Mental Health Services Administration. This part does not apply to direct funding under any such authorities for only mental health services or for certain infrastructure